

Reflections on the Sacco-Vanzetti Tragedy

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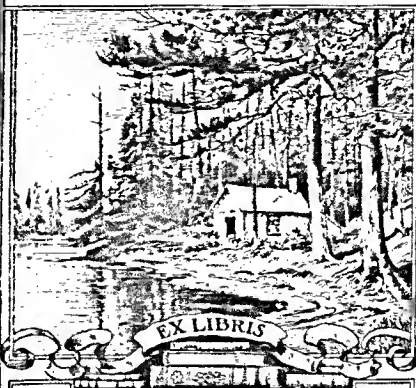
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IF E A R

By EDNA ST. VINCENT MILLAY

There are two names you would not have me mention, for you are sick of the sound of them. All men must die, you say, and these men have died, and would that their names might die with them; would that their names were as names written in the sand, you say, to be dissipated by the next incoming tide! For you long to return to your gracious world of a year ago, where people had pretty manners and did not raise their voices; where people whom you knew, whom you had entertained in your houses, did not shout and weep and walk the streets vulgarly carrying banners, because two quite inconsequential people, two men who could not even speak good English, were about to be put forever out of mischief's way. Do let us forget, you say; after all, what *does* it matter?

You are right; it does not matter very much. In a world more beautiful than this it would have mattered more. On the surface of a Christianity already so spotted and defaced by the crimes of the Church this stain does not show very dark. In a freedom already so riddled and gashed by the crimes of the state this ugly rent is with difficulty to be distinguished at all.

And you are right; it is well to forget that men die. So far we have devised no way to defeat death, or to outwit him, or to buy him over. At any moment the cloud may split above us and the golden spear of death leap at the heart; at any moment the earth crack and the hand of death reach up from the abyss to grasp our ankles; at any moment the wind rise and sweep the roofs from our houses, making one dust of our ceilings and ourselves. And if not, we shall die soon, anyhow. It is well to forget that this is so.

But that man before his time, wantonly and without sorrow, is thrust from the light of

the sun into the darkness of the grave by his brother's blindness or fear it is well to remember, at least until it has been shown to the satisfaction of all that this too is beyond our power to change.

...

Two months ago, in Massachusetts, these men whom I do not name were efficiently despatched out of the sunlight into the darkness of the grave. The executions of the death sentence upon them went forward without interference; there were no violent demonstrations. Whatever of agitation there was has steadily decreased since that night. Today things are very quiet. From time to time some small newspaper remarks editorially that the hysteria which swept the country has abated, and congratulates its readers upon having escaped disintegration. Aside from this there is little comment. The general opinion is that the affair has pretty well blown over. And the world sleeps easy on its pillow.

Yet if all is quiet today, it is more for this reason than for any other that; though you sit in the same room with a man you cannot hear his thoughts. And the tumult is in the mind; the shouting and rioting are in the thinking mind. Nothing has abated; nothing has changed; nothing is forgotten. It is as if the two months which have elapsed were but the drawing of a breath. In very truth, for those who sat in silence on that night of the 22nd of August, waiting for news from the prison, and in silence when the news came, it is still the night of the 22nd of August, for there has been no dawn.

I do not call these men by name, for I know how nervous and irritable you become at the sight of these names on the printed page;

how your cheek flushes and you cluck with exasperation; how you turn to your family with words on your tongue which in former days you would not have used at all—"vipers, vermin, filth." This is because you were just dozing off nicely again after the shocking uproar of two months ago, and do not wish to be disturbed. You are as cross as an old dog asleep on the hearth if I shake you and try to get you out into the rainy wind. This is because what you most want out of life is not to be disturbed. You wish to lie peacefully asleep for a few years yet, and then to lie peacefully dead.

If you should rouse yourself for a moment and look about you at the world, you would be troubled, I think, and feel less peaceful and secure, seeing how it is possible for a man as innocent as yourself of any crime to be cast into prison and be killed. For whether or not these men whom I do not name were guilty of the crime of murder, it was not for murder that they died. The crime for which they died was the crime of breathing upon the frosty window and looking out.

"These Anarchists!" you say; "shall I never hear the last of them?"

Indeed, I fear it will be some time before you hear the last of them. I do not mean by this what you think I mean. I do not mean that plotting mischief is afoot, that thousands of people hitherto gentle and retired are now grimly engaged in fashioning engines of death to plant beneath the State House floor. This is not what I mean, although you will say it is what I meant.

• • •

It is of your children I was thinking, your young sons and daughters, your grandsons and granddaughters, these young people with whom you have already so much difficulty, because, as you say, they have so few illusions. How often already have they not stood looking at you coldly while with warm cheek and faltering accent you presented your pretty concepts: duty, honor, courage, purity, sacrifice—those fragile dolls of yours, that are always dressed for summer, no matter what the sky?

Your children heard you discussing the case in question. "Anarchists, murderers, Anarchists, Anarchists." This was your discussion of the case. They looked at you, yawned, and left the room.

Their minds are dark to you. But they are busy. Out of your sight they read, they ponder, they work things out. In your presence they often sit in a not too respectful silence, interrupting suddenly your placid remarks by their brisk utterance of some untidy truth never mentioned in your house before.

They are frankly occupied chiefly with the real business of life, which, as everybody knows, is having your own way, and getting as much as possible for as little as possible. It is you who have taught them this angular truth; you have failed only in that you have not been able to impart to them as well the ruffles and passementerie with which you are accustomed to adorn it. They were just beginning to look about them at life when war broke out and surrounded them with death. They know how important it is to have a good time while you can; in the next war it is they who will be taken.

As for their illusions, well, they have seen you at war, and they are beginning to understand why you went to war; they have seen you engaged in many another dubious and embarrassing activity; and now they have seen this. They who have been chidden time and again for having so little softness in them see now their parents, for all their gentle voices and courteous ways, more hard, more unscrupulous, more relentless, than themselves in their most iron moods. It is from these children, I fear, that you are likely to hear again on the subject, though not in so many words.

But, you say, what we did was done for the good of the country, to protect its honor, its institutions, the glory of its flag.

What is this honor, that a breath can tarnish? This glory, that a whisper can bring it low? What are these noble institutions, that a wind from any quarter can set to trembling like towers of jelly?

You do not know exactly what they are. For you do not live with them. They are not trees to shade you, water to quench your thirst. They are golden coins, hidden under the mattress in a very soiled wallet. The only pleasure they afford you is the rapturous dread lest some one may be taking them away. And some one is taking them away. But not the one you think.

Unkindness, hypocrisy, and greed—these are

the forces that shall bring us low and enslave our children. Yet we quarter their troops in our houses without a murmur. We show them where the treasure is hid. But they know it already.

This is the way you look at it: These men were Anarchists, and they are well out of the way; you are fortunate to have escaped destruction at their hands; they were probably murderers; but, in any case, they are well out of the way. It was that word Anarchist which brought them to the chair; that word, and your ignorance of its meaning.

For you do not at all know what an Anarchist is. And all through this trial in which the word Anarchist has played such an important part you have not even looked up the word in the dictionary, your position being that, in the first place, you know quite well enough, and, in the second place, you would think shame to know.

An Anarchist, you insist, is a man who makes bombs and puts them under the State House, and that is that. On the contrary, that is by no means that. The person you have in mind is not an Anarchist, he is a bomber. You will find him everywhere—among Anarchists, among Fascists, among dry-law enforcers, among Modernists, among Fundamentalists, and freely distributed throughout the Ku Klux Klan. He is that person who, when he does not like a thing, lynches it, tars and feathers it, lays a curse upon it, or puts a bomb under it. His name is legion, and you will find him in every party.

An Anarchist, according to the dictionary, is a person who believes that human beings are naturally good, and that if left to themselves they would, by mutual agreement, govern themselves much better and much more peacefully than they are being governed now by a government based on violence. An interesting theory. Nonsense, of course, because man is not naturally good; man is naturally cruel, selfish, and vain, and what he would be if left to his own devices it is horrible to contemplate. Still, it is an interesting concept, very idealistic, very pretty.

Of those who hold with the theory of Anarchism, the dictionary further tells us, there is one group whose members "occasionally resort to an act of violence against represen-

tatives of oppression to express a protest against, or to draw public attention to, existing social wrongs." (It is in this group that your bombers are happy and at home.) But "generally speaking," says the dictionary, "Anarchism repudiates violent methods, and hopes for a gradual evolution towards its goal."

Ah, you will say, but these men belonged to the violent group!

Their history would indicate otherwise. Up to the time of their detention for the crime for which they were later sentenced to die no slightest act of violence had ever been attributed to either of them. There are those who would have given much to be able to bring to light against them such an act of violence, and were unable to do so; it is to the counsel for the prosecution that I refer. "Throughout the entire trial" (I quote the uncontested statement of one who was in a position to know the facts)—"not one word of testimony was introduced against their character for honesty, peace, and good order."

I am going into this in some detail because I find it interesting. You, I fear, find it not only uninteresting, but vaguely and uncomfortably obscene. Yet, after all, you have very plentifully had your say on the subject—that action of yours, you know, that spoke so much louder than any words.

These men were castaways upon our shore, and we, an ignorant and savage tribe, have put them to death because their speech and their manners were different from our own, and because to the untutored mind that which is strange is in its infancy ludicrous, but in its prime evil, dangerous, and to be done away with.

These men were put to death because they made you nervous; and your children know it. The minds of your children are like clear pools, reflecting faithfully whatever passes on the bank; whereas in the pool of your own mind, whenever an alien image bends above, a fish of terror leaps to meet it, shattering its reflection.

I am free to say these things because I am not an Anarchist, although you will say that I am. It is unreasonable to you that a person should go to any trouble in behalf of another

person unless the two are members of the same family, or of the same fraternity, or, at the remotest, of the same political party. As regards yourself and the man who lives next door to you, you wish him well, but not so very well. Even if he is a member of the same church as yourself, you do not wish him so inordinately well. Whereas if he does not belong to the same church as yourself, and if, in addition, he does things a little out of the ordinary, such as walk in the street without a hat, you do not wish him well at all. In any case, as regards your neighbor and yourself, although you have no desire to see his house burn down or his children killed in a motor accident, a most modest worldly success will do very well for him, as far as you are concerned. For these and other reasons sufficiently naive and self-revealing, you take it as a matter of course that, of the many persons involved in the recent agitation in Boston, those who were not in the ring for what they could get out of it were revolutionists of the most flagrant dye. It is impossible for you to conceive that men could weep in public and women permit themselves to be thrown in jail because (as it seemed to them) the blue hem of Justice was being dragged in the mire. In the world in which you live Justice is a woman of stone above a court-house door.

As I said before, I am not sufficiently idealistic to share the political opinions of these men with whose fate I am concerned. It is impossible for me to be an Anarchist, for I do not believe in the essential goodness of man; man is quite patently, to my sight, the worm of the Moody and Sankey hymns. Except for this fact, I should of course think twice before writing as I do. For, although I was born in this country, and am possessed of that simple right of the citizen to hold any opinions he may hold, yet to avail one's self of this right and express opinions contrary to the opinions of the majority may become, as we have lately seen, a folly punishable by the extreme correction. For surely you are not still insisting that these two poor wretches

were put to death solely for the crime of murder? You and I both know that we must be careful, not only what we do, but also what we say, and even what we think, if we would not have one day our sleep brutally broken in upon and ourselves rudely forced to enter a place where we do not at all wish to go. And surely you will not deny that, if you would remain undisturbed, it is more important to be on the side of the established order of things than to be innocent of even the grossest crime?

As I said before, I dare say these things because I am not an Anarchist; but I dare say them for another reason, too: because my personal physical freedom, my power to go in and out when I choose, my personal life even, is no longer quite as important to me as it once was. Death even, that outrageous intrusion, appears to me at moments, and more especially when I think of what happened in Boston two months ago, death appears to me somewhat as a darkened room, in which one might rest one's battered temples out of the world's way, leaving the sweeping of the crossings to those who still think it important that the crossings be swept. As if indeed it mattered the least bit in the world whether the crossings be clean or foul, when of all the people passing to and from there in the course of an eight-hour day not one out of ten thousand has a spark of true courage in his heart, or any love at all, beyond the love of a cat for the fire, for any earthly creature other than himself. The world, the physical world, and that once was all in all to me, has at moments such as these no road through a wood, no stretch of shore, that can bring me comfort. The beauty of these things can no longer at such moments make up to me at all for the ugliness of man, his cruelty, his greed, his lying face.

(From *The Outlook*)



Vanzetti's Last Statement

Monday, August 22, 1927

A Record by W. G. THOMPSON

Sacco and Vanzetti were in the Death House in the State Prison at Charlestown. They fully understood that they were to die immediately after midnight. Mr. Ehrmann and I, having on their behalf exhausted every legal remedy which seemed to us available, had retired from the active conduct of the case, holding ourselves in readiness, however, to help their new counsel in any way we could.

I was in New Hampshire, where a message reached me from Vanzetti that he wanted to see me once more before he died. I immediately started for Boston with my son, reached the prison in the late afternoon or early evening, and was at once taken by the Warden to Vanzetti. He was in one of the three cells in a narrow room opening immediately to the chair. In the cell nearest the chair was Madeiros, in the middle one Sacco, and in the third I found Vanzetti. There was a small table in his cell, and when I entered the room he seemed to be writing. The iron bars on the front of the cell were so arranged as to leave at one place a wider space, through which what he needed could be handed to him. Vanzetti seemed to be expecting me; and when I entered he rose from his table, and with his characteristic smile reached through the space between the bars and grasped me warmly by the hand. It was intimated to me that I might sit in a chair in front of the cell, but not nearer the bars than a straight mark painted on the floor. This I did.

I had heard that the Governor had said that if Vanzetti would release his counsel in the Bridgewater case from their obligation not to disclose what he had said to them the public would be satisfied that he was guilty of that crime, and also of the South Braintree crime. I therefore began the interview by asking one of the two prison guards who sat at the other end of the room, about fifteen feet from where we were, to come to the front of the cell and listen to the questions I was about to ask Vanzetti and to his replies. I then asked Vanzetti if he had at any time said anything to Mr. Vahey or Mr. Graham which would warrant the inference that he was guilty of either crime. With great

emphasis and obvious sincerity he answered "no." He then said, what he had often said to me before, that Messrs. Vahey and Graham were not his personal choice, but became his lawyers at the urgent request of friends, who raised the money to pay them. He then told me certain things about their relations to him and about their conduct of the Bridgewater case, and what he had in fact told them. This on the next day I recorded, but will not here repeat.

I asked Vanzetti whether he would authorize me to waive on his behalf his privilege so far as Vahey and Graham were concerned. He readily assented to this, but imposed the condition that they should make whatever statement they saw fit to make in the presence of myself or some other friend, giving his reasons for this condition, which I also recorded.

The guard then returned to his seat.

I told Vanzetti that although my belief in his innocence had all the time been strengthened, both by my study of the evidence and by my increasing knowledge of his personality, yet there was a chance, however remote, that I might be mistaken; and that I thought he ought for my sake, in this closing hour of his life when nothing could save him, to give me his most solemn reassurance, both with respect to himself and with respect to Sacco. Vanzetti then told me quietly and calmly, and with a sincerity which I could not doubt, that I need have no anxiety about this matter; that both he and Sacco were absolutely innocent of the South Braintree crime, and that he (Vanzetti) was equally innocent of the Bridgewater crime; that while, looking back, he now realized more clearly than he ever had the grounds of the suspicion against him and Sacco, he felt that no allowance had been made for his ignorance of American points of view and habits of thought, or for his fear as a radical and almost as an outlaw, and that in reality he was convicted on evidence which would not have convicted him had he not been an anarchist, so that he was in a very real sense dying for his cause. He said it was a cause for which he was prepared to

die. He said it was the cause of the upward progress of humanity, and the elimination of force from the world. He spoke with calmness, knowledge, and deep feeling. He said he was grateful to me for what I had done for him. He asked to be remembered to my wife and son. He spoke with emotion of his sister and of his family. He asked me to do what I could to clear his name, using the words 'clear my name.'

I asked him if he thought it would do any good for me or any friend to see Boda. He said he thought it would. He said he did not know Boda very well, but believed him to be an honest man, and thought possibly he might be able to give some evidence which would help to prove their innocence.

I then told Vanzetti that I hoped he would issue a public statement advising his friends against retaliating by violence and reprisal. I told him that, as I read history, the truth had little chance of prevailing when violence was followed by counter-violence. I said that as he well knew, I could not subscribe to his views or to his philosophy of life; but that, on the other hand, I could not but respect any man who consistently lived up to altruistic principles, and was willing to give his life for them. I said that if I were mistaken, and if his views were true, nothing could retard their acceptance by the world more than the hate and fear that would be stirred up by violent reprisal. Vanzetti replied that, as I must well know, he desired no personal revenge for the cruelties inflicted upon him; but he said that, as he read history, every great cause for the benefit of humanity had had to fight for its existence against entrenched power and wrong, and that for this reason he could not give his friends such sweeping advice as I had urged. He added that in such struggles he was strongly opposed to any injury to women and children. He asked me to remember the cruelty of seven years of imprisonment, with alternating hopes and fears. He reminded me of the remarks attributed to Judge Thayer by certain witnesses, especially by Professor Richardson, and asked me what state of mind I thought such remarks indicated. He asked me how any candid man could believe that a judge capable of referring to men accused before him as "anarchistic bastards" could be impartial, and whether I thought that such refinement of cruelty as had been practised upon him and upon Sacco ought to go unpunished.

I replied that he well knew my own opinion of these matters, but that his arguments seemed to me not to meet the point I had raised, which was whether he did not prefer the prevalence of his opinions to the infliction of punishment upon persons, however richly he might think they deserved it. This led to a pause in the conversation.

Without directly replying to my question, Vanzetti then began to speak of the origin, early struggles, and progress of other great

movements for human betterment. He said that all great altruistic movements originated in the brain of some man of genius, but later became misunderstood and perverted, both by popular ignorance and by sinister self-interest. He said that all great movements which struck at conservative standards, received opinions, established institutions, and human selfishness were at first met with violence and persecution. He referred to Socrates, Galileo, Giordano Bruno, and others whose names I do not now remember, some Italian and some Russian. He then referred to Christianity, and said that it began in simplicity and sincerity, which were met with persecution and oppression, but that it later passed quietly into ecclesiasticism and tyranny. I said I did not think that the progress of Christianity had been altogether checked by convention and ecclesiasticism, but that on the contrary it still made an appeal to thousands of simple people, and that the essence of the appeal was the supreme confidence shown by Jesus in the truth of His own views by forgiving, even when on the Cross, His enemies, persecutors, and slanderers.

Now, for the first and only time in the conversation, Vanzetti showed a feeling of personal resentment against his enemies. He spoke with eloquence of his sufferings, and asked me whether I thought it possible that he could forgive those who had persecuted and tortured him through seven years of inexpressible misery. I told him he knew how deeply I sympathized with him, and that I had asked him to reflect upon the career of One infinitely superior to myself and to him, and upon a force infinitely greater than the force of hate and revenge. I said that in the long run the force to which the world would respond was the force of love and not of hate, and that I was suggesting to him to forgive his enemies, not for their sakes, but for his own peace of mind, and also because an example of such forgiveness would in the end be more powerful to win adherence to his cause or to a belief in his innocence than anything else that could be done.

There was another pause in the conversation. I arose and we stood gazing at each other for a minute or two in silence. Vanzetti finally said that he would think of what I had said.*

I then made a reference to the possibility of personal immortality, and said that, although I thought I understood the difficulties of a belief in immortality, yet I felt sure that if there was a personal immortality he might hope to share it. This remark he received in silence.

He then returned to his discussion of the evil of the present organization of society, saying that the essence of the wrong was the opportunity it afforded persons who were powerful because of ability or strategic economic position to oppress the simple-minded and idealistic among their fellow men, and that he feared that nothing but violent

resistance could ever overcome the selfishness which was the basis of the present organization of society and made the few willing to perpetuate a system which enabled them to exploit the many.

I have given only the substance of this conversation, but I think I have covered every point that was talked about and have presented a true picture of the general tenor of Vanzetti's remarks. Throughout the conversation, with the few exceptions I have mentioned, the thought that was uppermost in his mind was the truth of the ideas in which he believed for the betterment of humanity, and the chance they had of prevailing. I was impressed by the strength of Vanzetti's mind, and by the extent of his reading and knowledge. He did not talk like a fanatic. Although intensely convinced of the truth of his own views, he was still able to listen with calmness and with understanding to the expression of views with which he did not agree. In this closing scene the impression of him which had been gaining ground in my mind for three years was deepened and confirmed—that he was a man of powerful mind, and unselfish disposition, of seasoned character, and of devotion to high ideals. There was no sign of breaking down or of terror at approaching death. At parting he gave me a firm clasp of the hand and a steady glance, which revealed unmistakably the depth of his feeling and the firmness of his self-control.

I then turned to Sacco, who lay upon a cot bed in the adjoining cell and could easily have heard and undoubtedly did hear my conversation with Vanzetti. My conversation with Sacco was very brief. He rose from his cot, referred feelingly though in a general way to some points of disagreement between us in the past, said he hoped that our differences of opinion had not affected our personal rela-

tions, thanked me for what I had done for him, showed no sign of fear, shook hands with me firmly, and bade me good-bye. His manner also was one of absolute sincerity. It was magnanimous in him not to refer more specifically to our previous differences of opinion, because at the root of it all lay his conviction, often expressed to me, that all efforts on his behalf, either in court or with public authorities, would be useless, because no capitalistic society could afford to accord him justice. I had taken the contrary view; but at this last meeting he did not suggest that the result seemed to justify his view and not mine.**

*It is credibly reported that when, a few hours later, Vanzetti was about to step in the chair, he paused, shook hands with the Warden and Deputy Warden and the guards, thanked them for their kindness to him, and, turning to the spectators, asked them to remember that he forgave some of his enemies.

** I afterward talked with the prison guard to whom I have referred in this paper. He told me that after he returned to his seat he heard all that was said by Vanzetti and myself. The room was quiet and no other persons were talking. I showed the guard my complete notes of the interview, including what Vanzetti had told me about Messrs. Vahey and Graham. He read the notes carefully and said that they corresponded entirely with his memory except that I had omitted a remark made by Vanzetti about women and children. I then remembered the remark and added it to my memorandum.

W. G. T.

(From *The Atlantic Monthly*)



Psychology and Justice

By JOHN DEWEY

Sacco and Vanzetti are dead. No discussion of their innocence or guilt can restore them to life. That issue is now merged in a larger one which in turn is merged in the comprehensive issue of the tone and temper of American public opinion and sentiment, as they affect judgment and action in any social question wherein racial divisions and class interests are involved. These larger issues did not pass with the execution of these men. Their death did not, indeed, first raise these momentous questions. They have been with us for a long time and in increasing measure since the War. But the condemnation and death of two obscure Italians opened a new chapter in the book of history. Certain phases of our life have been thrown into the highest of high lights. They cannot henceforth be forgotten or ignored. They lie heavy on the conscience of many, and they will rise in multitudes of unexpected ways to trouble the emotions and stir the thoughts of the most thoughtless and conventional.

I have no intention of entering into a discussion at large of the many things which are revealed in this new chapter. There is one point to which I confine myself, not, seemingly, very large in itself, but momentous in its bearings; the psychology of the dominant cultivated class of the country as revealed in the report of the Fuller advisory committee. Without disrespect to the important activities which are identified with the names of the men who formed the committee, it is no exaggeration to say that their place in the historic memory of mankind will be settled by the document they have written. And in justice to them, the future will recognize that the document is something more than a personal expression; that it is typical and symbolic, a representation of the state of mind that must be widespread in the educated leaders of the American public in the third decade of the twentieth century. Because my purpose is limited, I make no attempt to go outside the record, much less to discuss the innocence or guilt of Sacco and Vanzetti. These matters have been dealt with by more competent hands than mine. The attitude, the mental disposition, of the authors of the report, as exhibited in their report, is my theme.

In discussing this matter, the statement of

the method followed by the committee in finding the condemned men guilty gives the baseline. They say: "As with the Bertillon measurements or with finger-prints, no one measure or line has by itself much significance, yet together they may produce a perfect identification; so a number of circumstances—no one of them conclusive—may together make a proof beyond reasonable doubt". In deciding the men guilty, it is not each item by itself in isolation which counts, but the cumulative effect of all in their mutual bearing. I cite this fact, not to question their statement nor to raise the old controversy regarding circumstantial evidence, but because of its significance in connection with the standard adopted and the method pursued by the committee in dealing with other questions. For these other matters are segregated, both at large and in detail; every item and every topic is treated as an isolated thing, to be disposed of by itself without regard to anything else. The cumulative principle is not only disregarded; it is deliberately departed from. Why? Men, especially men of disciplined and cultivated minds, do no reverse their criterion and procedure without a cause.

The evidence for the sweeping statement just made is found, first, in the plan of treatment adopted in general, the framework of the report; second, in the way in which the considerations falling within the first two divisions are broken up and isolated, and third, in the manner of dealing with a fundamentally important question.

The framework of the report is indicated by the following: "The inquiry you have asked the committee to undertake seems to consist of answering the three following questions: (1) In their opinion was the trial fairly conducted? (2) Was the subsequently discovered evidence such that in their opinion a new trial ought to have been granted? (3) Are they, or are they not, convinced beyond reasonable doubt that Sacco and Vanzetti were guilty of the murder?" That the first two of these questions were *elements* in the issue with which the committee had to deal, no one will question. Opinions will differ as to whether or not they were called upon to act as a jury and determine and state their own opinion as to the men's guilt or innocence. This difference will depend upon whether, in the light

of the world-wide interest in the trial and conviction, men think that the original question of innocence or guilt had or had not in the course of events become, *for the time being*, secondary to the question of administration of justice.

In any event, the segregation of the first two questions, the treatment of the matters of a fair trial and of newly discovered evidence not as *elements* in the issue, but as independent and isolated issues, accounts for the fact that the main issue, as it stands before the world, is not faced. It is not even mentioned. For that issue is whether, taking *all considerations together*, there was or was not reasonable ground for doubt as to a miscarriage of justice in case of the men's immediate execution. The separate treatment of the questions whether the trial already had was fair and whether the newly presented evidence was of value flatly contradicts the cumulative principle accepted and proclaimed in pronouncing the accused guilty. The method fails to face the fact that the two questions have a common and integral bearing upon the main issue, namely, that a miscarriage of justice was reasonably possible if the sentence of death were put into effect forthwith.

The entire procedure was extra-judicial; the very existence of the committee is proof of widely held belief that justice had not, beyond a peradventure, been done; that, irrespective of whether the men were guilty or innocent, there were many circumstances attending the case which indicated that they had not been *proved* guilty. Moreover, any action the committee might recommend, any advice they might give, any conclusions at which they might arrive, were extra-judicial. The governor holds an executive office; he is no part of the judicial system. The appointment of the committee was extra-judicial, and its function was as extra-judicial as its appointment. The governor is entrusted with the task of protecting condemned men against a reasonable degree of a possibility of miscarriage of justice. His is the power to exercise clemency either by pardon or commutation of sentence, not to decide guilt or reverse the action of courts. The office of the committee was to guide the conscience of the governor in the exercise of that function. Why was it, then, that they acted as a jury and as a court, and in so doing adopted strictly legalistic methods of reasoning, even to the point of virtually throwing upon the defense the burden of showing that there was a certainty, not a reasonable possibility, of a miscarriage of justice if the condemned men were at once executed?

Whatever be the answer to this question, the answer to the question as to how they avoided facing the issue is sure. It was done by splitting the issue up into separate questions and disposing of each without any reference to its connection with the others.

For, with respect to miscarriage of justice, the question of the old trial and the question of refusal of a new trial in the light of new evidence are, most conspicuously, of a cumulative character. Their net effect, when viewed together, in relation to each other, defined the issue. Why, then, were they treated in complete isolation? The answer can be found only in the attitude with which the issue was approached.

While that attitude is apparent in the frame-work of the report, with its division into three separate questions, the full force of the isolation in determining the procedure is manifest only when we take up details under the first two heads. By the statement of the report itself, there are six points under each. Are the six points treated as having a force such that, while each by itself is "inconclusive" when taken together they have a probative force as to a reasonable doubt? Such a treatment is not even hinted at. Systematically, each is kept apart from every other, so that the question of cumulative effect may not even arise. The six considerations bearing on the conduct of the original trial include such important points as the bias of the judge, the conduct of the prosecuting attorney in dwelling on the radicalism of the accused, the atmosphere of the court-room, the alleged intervention of federal officials. But each one of these things is taken up as an isolated item, and disposed of in its isolation.

The contrast with the cumulative method used in declaring the men guilty becomes more glaring, the more the details of the two procedures are noted. Under the cumulative procedure, weight is given to the fact that the "general appearance" of Sacco is admittedly "like" that of one of the actual murderers; that his cap bore "a resemblance in color and general appearance" to one which he admittedly owned; and that, when arrested, he had in his possession a pistol of the "kind" with which the murder was admittedly committed; that, while experts were opposed as to whether the bullet must have been fired from his pistol, the committee are *inclined to believe* those who testify it must have been. Try a simple intellectual experiment. What would have become of these separate considerations if the committee had dealt with them by the method of segregation followed in the case of the six considerations adduced to indicate an unfair trial?

There are also six points with respect to the bearing of new evidence upon granting a new trial. One of them was the evidence (not given at the trial), of a bystander, Gould, that the accused men were not the murderers he saw—he being so close to the scene that a bullet passed through his coat lapel. It is also a matter or record that his evidence was not known to the defense at the time of trial. He was known by the prosecution to have been present at the scene of murder, and yet was not called. The committee labor to ex-

culpate the prosecution from the charge of suppression of evidence unfavorable to their case. The method pursued is typical: a highly legalistic argument to whittle down the significance of the admitted facts. Contrast their procedure on this point with that in dealing with a new witness who gave testimony tending to break down Sacco's alibi. Here they remark: "The woman is eccentric, not unimpeachable in conduct; but the committee believes that in *her* case, her testimony is *well worth* consideration." (The italics, naturally, are not in the original text.) But more significant is their comment that Gould's evidence is "merely cumulative" other eye-witnesses having also testified that the murders were not Sacco and Vanzetti! They do not stop here. They go on to volunteer the remark that "there seems to be no reason to think that the statement of Gould would have any effect in changing the mind of the jury"! Since they can hardly be supposed to mean that the mind of the jury was impervious to evidence, this assumption of the role of jurors is indicative of the committee's own attitude, all the more so because the remark about a *former* jury is made in the course of discussion of granting a *new* trial!

But this is but one of the six points adduced. Some of the others were the assertion of Madeiros that he was with another gang when it committed the murder; evidence purporting to show marked prejudice on the part of the foreman of the old jury; under two counts; the testimony of one of the experts for the prosecution that, after he had positively refused to say that the fatal bullet was fired from Sacco's pistol, the prosecuting attorney arranged to have him testify that it was "consistent" with having been so fired. The report itself is the most convincing evidence that can be found of the adoption of the non-cumulative method, as well as of the whittling down of each point, in its isolation, to a minimum, together with magnifying to the utmost all new evidence which fell on the other side. Thus the evidence that the rent in the cap which had been employed as part of its identification with Sacco's is disposed of by saying that it is "so trifling a matter in the evidence in the case that it seems to the committee by no means a ground for a new trial"—as if it had been argued that, taken by itself alone, it did afford such a ground. This "trifling" matter ceases to be trifling when taken as evidence of the rejection of any recognition of the cumulative principle. Again, when two new experts testified that the fatal bullet was not fired from Sacco's pistol, and two new ones testified that it was, the committee says that, after examining the photographs, they are led to the conclusion "that the latter present the more convincing evidence". In other words, although the question at issue is whether there was ground for a new trial, with a new jury, the committee themselves assume the function

of a jury in dealing with new evidence so as to deny the new trial.

The third phase of self-revelation regarding the antecedent attitude of the committee is found in their method of dealing with the radicalism of the condemned men in its alleged effect upon the jury and judge, a radicalism the more heinous because those who professed it were also foreigners. This is the aspect of the case which loomed largest in public attention and interest—it is the basic cause of the committee's existence. In accepting appointment on Governor Fuller's committee, Messrs. Lowell, Stratton and Grant accepted also a responsibility to a public found in every country of the globe. Their own record manifests the way in which they discharged this responsibility. They admit the radicalism; they admit its prejudicial effect in causing illegal arrests and deportation. But they employ these admitted facts only in order to justify the action of the prosecuting attorney! For he had subjected Sacco to a cross-examination "on the subject of his social and political views [which] seems at first unnecessarily harsh and designed rather to prejudice the jury than for the legitimate purpose of testing the sincerity of his statements thereon." In excusing him they deny that the proof of radicalism did influence the jury! They also admit the bias of the judge on the basis of "indiscreet" conversations out of court, but assert that his bias was not a factor in the conduct of the trial. And the bearing of radicalism upon the conduct of the accused when arrested is ignored. It is next to a psychological commonplace that men, especially men of trained minds, reason in such an inverted fashion only when influenced by some covert factor.

Here are the facts as written in the report. There is no doubt left to the committee's knowledge of the state of public sentiment at this time of the trial and of their knowledge of its actual (not merely possible) effect in bringing about unjust and illegal action. "There were wholesale arrests of Reds—fortunately stopped by Judge Anderson of the United States Circuit Court—in southeastern Massachusetts." They would hardly have been stopped by the judge and their stoppage have been fortunate, unless they were illegal. Again, "at that time of abnormal fear and credulity, little evidence was required to prove that anyone was a dangerous radical. Harmless professors and students in our colleges were accused of dangerous opinions." The hysteria was so widespread as to extend beyond foreigners and ignorant laborers to college men, teachers and students. And the cross-examination of the prosecuting attorney was of the seemingly harsh and prejudicial character just cited. And it affects the men of the committee as such after a lapse of years in which public opinion has calmed, men who are highly trained, not just the average man such as serves on a jury.

Nevertheless, the committee hold that it did not influence the jury living in the midst of the period of fear and credulity, when little evidence was required to convict an accused person of being a Red, and although, instead of little evidence, these jurymen had the fact of radicalism clearly proved, and although they were average men, not trained minds capable of detecting bias and thus, presumably, discounting it!

How is this remarkable result obtained? By two methods, one direct, the other indirect, shifting the issue. The direct procedure lay in questioning the jurors (the ten of them who were accessible) on the subject, and accepting their assurance that they were not influenced by the attitude of the judge and the mode of conduct of the trial. "Each felt sure that the fact that the accused were foreigners and radicals had no effects upon his opinion." These men, in other words, are now sure, an assurance which the committee fully accepts in the most important phase of the trial, that *they* were immune to the prevailing contagion of "fear and credulity" and immune although they had not "little evidence" but convincing proof of "dangerous opinions." Believe it he who can. And disbelief does not involve doubt as to the good faith of any juror in making the statement he made. If, in such an atmosphere, they had been aware of the influence of this force upon their beliefs, they would have been extraordinary men, even more unusual than the members of the committee. If they had been aware of the influence working upon them, they would have been in a position to discount it. Moreover, their statement is made after a period of years, during which their conduct has been the subject of ardent controversy and themselves the object of bitter criticism, so that all their defense mechanisms have been called into action. But the committee accepts their assurance at full value! The committee's belief that the admitted bias of the judge outside the courtroom, was dropped by him in the courtroom, as he might shed an overcoat when he donned judicial robes, evinces an equal disregard of elementary psychological factors.

More self-revealing still is the committee's procedure with reference to the "consciousness of guilt" alleged by the prosecution to be proved by the false statements the prisoners made when arrested. The defense contended their false statements were due to consciousness that they were radicals and foreigners and were due to fear of arrest and deportation. The committee first excuses the seemingly harsh and prejudicial examination of the prosecuting attorney, on the ground that it was necessary for him to test the sincerity of their professed radicalism as explaining their behavior upon arrest. Then not only are the committee certain that the proof the defendants sincerely held these views had no weight with the jury's opinion, but they turn

the proof, not to support the men's own explanation of their conduct, but as consistent with, if not actual evidence of, consciousness of guilt! The method by which this is done is perhaps the most extraordinary thing in an extraordinary document.

The argument goes: It was the defendants themselves, when on trial, who made clear their radical views. When they were arrested, there was "in the case of Sacco, no certainty that he held any such views. The United States authorities who were hunting for Reds had found nothing that would justify deportation or any other proceedings against these men". Although there were wholesale arrests, "these men had not been arrested."

Hence the justification of the prosecuting attorney in a seemingly harsh and prejudicial manner of prosecution—which, nevertheless, did not prejudice men at a time of fear and credulity. Moreover, while establishment of the fact that they were radicals, and were arrested at a time of wholesale illegal arrests and deportations, justifies the prosecuting attorney, it has no weight in contravention of the theory of "consciousness of guilt" as displayed upon arrest. The implication is that, instead of acting upon their knowledge that they were obnoxious radicals, they should have acted upon the lack of certain knowledge on the part of the authorities!

In comparison with the force of elementary psychological considerations, it may seem to weaken the case to refer to another incidental fact. The committee's sole reference to the conduct of Mr. Thompson is that, upon occasion, his conduct indicated that "the case of the defense must be rather desperate" for him to resort to the tactics attributed to him. Well, events, in which the committee had their share, indicate that the plight of the defendants was indeed desperate; and Mr. Thompson, above all others, had occasion to realize how tragically desperate. But, quite apart from the committee's own conviction of the guilt of the accused, it was known to them that Mr. Thompson was equally convinced of their innocence; that he was conservative in his social and political views; that, at great sacrifice of time, of social and professional standing, he had made a gallant fight for the accused out of jealous zeal for the repute of his own state for even-handed justice. Yet their sole reference to him is by way of a slur. I see but one explanation of such lack of simple and seemingly imperative generosity of mind.

One is profoundly humiliated at the revelation of an attitude which, it is submitted, the record amply sets forth, the record placed before the bar of history. The sense of humiliation is akin to that of guilt, as if for a share in permitting such a state of mind as is exhibited in the record to develop in a country that professes respect for justice and devotion to equality and fraternity.

(From *The New Republic*)

The Martyrs of Massachusetts

By C. I. CLAFLIN

The case of Nicola Sacco and Bartolomeo Vanzetti has, I understand, been too fully reported in the British Press to call for any comprehensive review in the pages of *The Free Catholic*. Were such a review indicated, I am not equipped to supply it; for my knowledge of the case is only that which was open to anyone who happened to be in Greater Boston during the spring and summer of the year 1927. My point of view is that of a Free Catholic of mingled sympathies who is Massachusetts born of old Massachusetts stock, but whose life has been passed partly outside the State. It is for whatever interest there may be in such a bystander's impressions of the social forces which the case epitomizes that this slight study is presented.

The Commonwealth of Massachusetts—for that, not State, is its official title—is one of the most conservative of American States. True, its private philanthropy is perhaps the most highly developed in the world, and has reacted favourably on the quality of its public welfare work; but no community is more thoroughly committed to the support of existing institutions. This holds (individual exceptions apart) not only of its old blue-blooded aristocracy—as conscious and acknowledge an aristocracy as exists anywhere—and of such wealthy newcomers as, like the present Governor, have obtained entrance to that class's jealously guarded ranks; it holds equally of the citizens of Colonial descent who make up the bulk of its middle class. The foreigners who, in successive waves, have inundated its labour market, comprise many many different elements, of which only one, the earliest, has yet established itself on a footing of anything like political and social equality with the native stock. That element is the Irish, often called simply "the Catholics." In resisting their advance the native stock has developed an attitude of "Belfast" type—the attitude of a garrison on its defence—and the later immigrations have encountered this attitude already fixed. The Irish, on their side, have not been eager to share their hard-won advantages with later comers, and these have in large measure remained outside the arena of traditional party politics—in close touch with their motherlands, and tinder to the sparks of "radical" ideas.

Into this situation, tense with antagonisms,

came the passions of the war and the panic engendered by the Russian Revolution. This panic, sedulously fostered, still continues, and seems to dominate popular thinking. In such an atmosphere, aliens who were avowed anarchists, who had evaded conscription, and who were disseminating seditious propaganda, were half convicted already of any crime that might be charged against them. That it is possible to be in fierce revolt against a social system, and yet, in personal relations, the gentlest and most upright of mankind; that the crime charged in this case had no political aspect, but was a sordid act of robbery and murder, committed on two wage-earners one of whom was himself an Italian; that a man who had it in him to commit such a crime would be the last person to invite police surveillance by seditious activities—considerations like these were and are too subtle to penetrate minds constantly deafened by the outcry of an almost altogether hostile press. No deeper impression was made even by the concrete and admitted facts that the defendants had worked steadily, before and after the crime, at honest occupations; and that the large sum of money stolen had never been even presumptively traced in their possession or that of anyone however distantly connected with them.

This state of what seems to me mental obfuscation should not be attributed solely to political and economic prejudices. Crimes of violence are apparently somewhat on the increase in the United States. The multiplication of the automobile facilitates them; other factors are no doubt involved. The newspapers "feature" news of this type, and "the crime wave" has become a byword. There is widespread dissatisfaction with the frequent failure of the machinery of justice to find, convict, and severely punish malefactors, and a popular demand has arisen—not, as one might hope, for more intelligence applied to the prevention and cure of crime—but for swifter and more drastic retribution. Again, the legal tradition of Massachusetts, as embodied both in enactment and in custom, is conservative: it reposes great confidence in the judiciary—who are appointed for life, not, as in most of our States, elected—closely limits the power of the Supreme Court in passing on appeals, and gives little encouragement to

executive clemency. In this case, indeed, the Supreme Court put a startlingly narrow interpretation on its own functions; but I stress not so much the letter as the spirit of our law, which certainly tends to make appeal difficult—and this tendency, inherited from a stern elder age, the temper of our present times has done more to re-enforce than to counteract.

The violence or threatened violence associated with many of the protest on behalf of the defendants has been cited as an injury to their cause. It might have alienated public sympathy from them, if there had been any to alienate. As the matter stood, I doubt whether this factor weighed appreciably in determining the outcome. The protests from abroad, and from the rest of the United States, which were addressed to reason and humanity instead of to fear, would have had an influence if it had not been counteracted by the stronger influence of pride. Massachusetts is far less important—economically, culturally, politically—than she once was. The fact is undeniable, but it galls. A chance to show that, after all, she is still a sovereign State, accountable to no one, was alluring; and the thought of owning before the whole world that her administration of justice had gone wrong was hard to face.

Against such a background the tragedy played itself out. The courts and committee who sat on the case were drawn mainly, if not wholly, from what I have called the native stock; they included no one of other than conservative opinions, and no representative of the later immigration. Yet the make-up of those particular bodies seems to me less important than the general sentiment of the Commonwealth. It was to that authority that the real appeal lay, and before that tribunal that—for some such reasons as I have suggested—it failed. The one claim of Italians on Irish sympathies—a common Catholicism—the defendant had forfeited by declaring themselves atheists. No other bond

with the arbiters of their fate remained to them. They were outside the pale.

Yet a word should be said for the exceptions. On the defence committee, as counsel, and as unofficial advocates served with boundless devotion, citizens whose title to represent Massachusetts cannot be impeached. Justice Holmes of the *national* Supreme Court, though denying, on strong constitutional grounds, the applications made to him, gave his reply with a gravity and courtesy that shone conspicuous. Our Cardinal Archbishop kept a speaking silence, and manifested a gracious compassion. Toward the last, freedom of speech and assembly were almost wholly suspended by the police. Boston resembled an armed camp—and yet the funeral procession was officially estimated to number seven thousand.*

To one, at least, the experience has brought nearer the events of an April week in Jerusalem nineteen hundred years ago. "They were instant with loud voices, requiring that he might be crucified. And the voices of them and of the chief priests prevailed. And Pilate gave sentence that it should be as they required." Words like these ring with a new reality. When, among the crimson flowers, I looked on the faces of the dead, and bent the knee by their bier, I felt the essence of martyrdom broader than technical definitions—as broad as our Lords' own "Inasmuch."

Dying, our martyrs forgave us. Living, may they be our intercessors. Forgiveness we needed: and God alone knows our need of prayers.

(From *The Free Catholic*)
BIRMINGHAM, ENGLAND

*Police admitted that at the start of the funeral on Hanover Street there were more than 50,000 people in the procession. Mounted troopers rode into the procession as it turned into Tremont Street and cut it to pieces.

